



Reprinted  
April 1, 2003

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# ENGROSSED HOUSE BILL No. 1664

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DIGEST OF HB 1664 (Updated March 31, 2003 4:04 PM - DI 69)

**Citations Affected:** IC 8-1; IC 14-25; IC 14-26; IC 14-27; IC 14-28.

**Synopsis:** Natural resources. Requires the department of natural resources to negotiate the wholesale rate of reservoir water. Authorizes the utility regulatory commission to set wholesale water rates between the department and a purchaser. Allows the water resources development fund to be used for the operation of the division of water. Establishes new and increased fees the department must charge for the following: (1) a permit to alter a lake shoreline or bed; (2) a technical inspection of a low hazard or significant hazard dam; and (3) a permit to make other uses of a floodway. (The introduced version of this bill was prepared by the natural resources study committee.)

**Effective:** July 1, 2003.

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## Reske, Mangus, Saunders

(SENATE SPONSORS — WEATHERWAX, ADAMS K)

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January 21, 2003, read first time and referred to Committee on Agriculture, Natural Resources and Rural Development.

February 10, 2003, amended, reported — Do Pass. Recommitted to Committee on Ways and Means.

February 18, 2003, reported — Do Pass.

February 24, 2003, read second time, ordered engrossed. Engrossed.

February 26, 2003, read third time, passed. Yeas 79, nays 14.

SENATE ACTION

March 4, 2003, read first time and referred to Committee on Natural Resources.

March 24, 2003, reported favorably — Do Pass.

March 31, 2003, read second time, amended, ordered engrossed.

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EH 1664—LS 7416/DI 77+



Reprinted  
April 1, 2003

First Regular Session 113th General Assembly (2003)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2002 Regular or Special Session of the General Assembly.

## ENGROSSED HOUSE BILL No. 1664

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A BILL FOR AN ACT to amend the Indiana Code concerning natural and cultural resources.

*Be it enacted by the General Assembly of the State of Indiana:*

1 SECTION 1. IC 8-1-2-61.8 IS ADDED TO THE INDIANA CODE  
2 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
3 1, 2003]: **Sec. 61.8. (a) If the commission receives a petition under**  
4 **IC 14-25-2-3, the commission shall set the rate of compensation to**  
5 **the state under procedures established by the commission.**  
6 **(b) The rate established under subsection (a) must be on a unit**  
7 **pricing basis and comparable with other rates for the wholesale**  
8 **purchase of water in Indiana.**  
9 SECTION 2. IC 14-25-2-3 IS AMENDED TO READ AS  
10 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. A contract for the  
11 sale of water on a unit pricing basis that is entered into under this  
12 chapter or under IC 13-2-1-7 (before its repeal) after June 30, ~~1991,~~  
13 **2003**, must provide for compensation to the state at ~~the~~ **a rate of**  
14 **thirty-three dollars (\$33) per one million (1,000,000) gallons of water.**  
15 **determined by agreement between the department and the**  
16 **purchaser or contracting party. However, either party may**  
17 **petition the Indiana utility regulatory commission under**

EH 1664—LS 7416/DI 77+



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1 **IC 8-1-2-61.8 to set the rate.**

2 SECTION 3. IC 14-25-2-4 IS AMENDED TO READ AS  
3 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4. (a) As used in this  
4 section, "fund" refers to the water resources development fund created  
5 by this section.

6 (b) The water resources development fund is created. Money paid  
7 to the state under a contract entered into under this chapter shall be  
8 deposited in the fund.

9 (c) The proceeds of the fund do not revert to the state general fund  
10 but constitute a revolving fund to be used exclusively for the purposes  
11 of this chapter.

12 (d) The treasurer of state shall invest the money in the fund not  
13 currently needed to meet the obligations of the fund in the same  
14 manner as other public money may be invested. Interest that accrues  
15 from the investments shall be deposited in the fund.

16 (e) ~~The budget agency shall make fund allotments from the fund to~~  
17 ~~the commission~~ **Money in the fund may be used** for any of the  
18 following purposes:

- 19 (1) The development of new reservoirs.  
20 (2) The investigation, development, and improvement of existing  
21 reservoirs.  
22 (3) The acquisition of easements or purchase in fee simple of land  
23 and property to be used as reservoir sites.  
24 (4) The financing, construction, operation, and maintenance of  
25 reservoir impoundments or parts of impoundments for water  
26 supply storage and uses, either independently or in cooperation  
27 with any person.  
28 (5) The investigation of water resource availability, quality, and  
29 water supply needs.  
30 (6) Watershed protection.  
31 (7) River enhancement.  
32 (8) The preparation of a compilation and mapping of all  
33 community public water supplies under IC 14-25-7-13(d).

34 **(9) The operation of the division of water.**

35 (f) The ~~commission department~~ shall administer the fund.

36 SECTION 4. IC 14-26-2-9 IS AMENDED TO READ AS  
37 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 9. (a) Upon written  
38 application by the owner of land abutting a public freshwater lake and  
39 payment of a nonrefundable fee of ~~twenty-five~~ **one hundred** dollars  
40 (~~\$25~~), (**\$100**), the department may issue a permit to:

- 41 (1) change the shoreline; or  
42 (2) alter the bed;



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1 of a public freshwater lake after investigating the merits of the  
2 application.

3 (b) As a condition precedent to granting a permit, an applicant must,  
4 in writing, do the following:

5 (1) Acknowledge that all additional water area created is a part of  
6 the lake.

7 (2) Dedicate the additional area to the general public use.

8 SECTION 5. IC 14-27-7.5-10, AS ADDED BY P.L.148-2002,  
9 SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
10 JULY 1, 2003]: Sec. 10. (a) The department shall make a technical  
11 inspection of:

12 (1) a significant hazard structure at least one (1) time every three  
13 (3) years; and

14 (2) a low hazard structure at least one (1) time every five (5)  
15 years;

16 or at more frequent intervals if the exigencies of the case require.

17 (b) The department shall place in the files of the department a report  
18 of each inspection conducted under subsection (a).

19 **(c) The department shall charge the following for engineering**  
20 **inspections:**

21 **(1) For a significant hazard structure under subsection (a)(1),**  
22 **a fee of two hundred dollars (\$200).**

23 **(2) For a low hazard structure under subsection (a)(2), a fee**  
24 **of one hundred dollars (\$100).**

25 SECTION 6. IC 14-28-1-22, AS AMENDED BY P.L.154-2002,  
26 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
27 JULY 1, 2003]: Sec. 22. (a) As used in subsection (b)(1) with respect  
28 to a stream, "total length" means the length of the stream, expressed in  
29 miles, from the confluence of the stream with the receiving stream to  
30 the upstream or headward extremity of the stream, as indicated by the  
31 solid or dashed, blue or purple line depicting the stream on the most  
32 current edition of the seven and one-half (7 1/2) minute topographic  
33 quadrangle map published by the United States Geological Survey,  
34 measured along the meanders of the stream as depicted on the map.

35 (b) This section does not apply to the following:

36 (1) A reconstruction or maintenance project (as defined in  
37 IC 36-9-27) on a stream or an open regulated drain if the total  
38 length of the stream or open drain is not more than ten (10) miles.

39 (2) A construction or reconstruction project on a state or county  
40 highway bridge in a rural area that crosses a stream having an  
41 upstream drainage area of not more than fifty (50) square miles  
42 and the relocation of utility lines associated with the construction

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- 1 or reconstruction project if confined to an area not more than one  
 2 hundred (100) feet from the limits of the highway construction  
 3 right-of-way.
- 4 (3) The performance of an activity described in subsection (c)(1)  
 5 or (c)(2) by a surface coal mining operation that is operated under  
 6 a permit issued under IC 14-34.
- 7 (4) Any other activity that is determined by the commission,  
 8 according to rules adopted under IC 4-22-2, to pose not more than  
 9 a minimal threat to floodway areas.
- 10 (5) An activity in a boundary river floodway to which section 26.5  
 11 of this chapter applies.
- 12 (c) A person who desires to:
- 13 (1) erect, make, use, or maintain a structure, an obstruction, a  
 14 deposit, or an excavation; or
- 15 (2) suffer or permit a structure, an obstruction, a deposit, or an  
 16 excavation to be erected, made, used, or maintained;
- 17 in or on a floodway must file with the director a verified written  
 18 application for a permit accompanied by a nonrefundable fee of ~~fifty~~  
 19 **two hundred** dollars ~~(\$50): (\$200).~~
- 20 (d) The application for a permit must set forth the material facts  
 21 together with plans and specifications for the structure, obstruction,  
 22 deposit, or excavation.
- 23 (e) An applicant must receive a permit from the director for the  
 24 work before beginning construction. The director shall issue a permit  
 25 only if in the opinion of the director the applicant has clearly proven  
 26 that the structure, obstruction, deposit, or excavation will not do any of  
 27 the following:
- 28 (1) Adversely affect the efficiency of or unduly restrict the  
 29 capacity of the floodway.
- 30 (2) Constitute an unreasonable hazard to the safety of life or  
 31 property.
- 32 (3) Result in unreasonably detrimental effects upon fish, wildlife,  
 33 or botanical resources.
- 34 (f) In deciding whether to issue a permit under this section, the  
 35 director shall consider the cumulative effects of the structure,  
 36 obstruction, deposit, or excavation. The director may incorporate in and  
 37 make a part of an order of authorization conditions and restrictions that  
 38 the director considers necessary for the purposes of this chapter.
- 39 (g) A permit issued under this section:
- 40 (1) is void if construction is not commenced within two (2) years  
 41 after the issuance of the permit; and  
 42 (2) to:

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1 (A) the Indiana department of transportation or a county  
 2 highway department if there is any federal funding for the  
 3 project; or  
 4 (B) an electric utility for the construction of a power  
 5 generating facility;  
 6 is valid for five (5) years from the date of issuance and remains  
 7 valid indefinitely if construction is commenced within five (5)  
 8 years after the permit is issued.  
 9 (h) The director shall send a copy of each permit issued under this  
 10 section to each river basin commission organized under:  
 11 (1) IC 14-29-7 or IC 13-2-27 (before its repeal); or  
 12 (2) IC 14-30-1 or IC 36-7-6 (before its repeal);  
 13 that is affected.  
 14 (i) The permit holder shall post and maintain a permit issued under  
 15 this section at the authorized site.  
 16 (j) For the purposes of this chapter, the lowest floor of a building,  
 17 including a residence or abode, that is to be constructed or  
 18 reconstructed in the one hundred (100) year floodplain of an area  
 19 protected by a levee that is:  
 20 (1) inspected; and  
 21 (2) found to be in good or excellent condition;  
 22 by the United States Army Corps of Engineers shall not be lower than  
 23 the one hundred (100) year frequency flood elevation plus one (1) foot.

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Agriculture, Natural Resources and Rural Development, to which was referred House Bill 1664, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, delete lines 1 through 17.

Page 2, delete line 1.

Page 2, line 16, strike "The budget agency shall make fund allotments from the fund to".

Page 2, line 17, strike "the commission" and insert "**Money in the fund may be used**".

Page 2, line 34, strike "commission" and insert "**department**".

Page 5, delete lines 23 through 42.

Delete pages 6 through 7.

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1664 as introduced.)

BISCHOFF, Chair

Committee Vote: yeas 12, nays 1.

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Ways and Means, to which was referred House Bill 1664, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

CRAWFORD, Chair

Committee Vote: yeas 26, nays 0.

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SENATE MOTION

Mr. President: I move that Senator Adams K be added as cosponsor of Engrossed House Bill 1664.

WEATHERWAX

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COMMITTEE REPORT

Mr. President: The Senate Committee on Natural Resources, to which was referred House Bill No. 1664, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill DO PASS.

(Reference is made to House Bill 1664 as printed February 19, 2003.)

WEATHERWAX, Chairperson

Committee Vote: Yeas 8, Nays 0.

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SENATE MOTION

Mr. President: I move that Engrossed House Bill 1664 be amended to read as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 8-1-2-61.8 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 61.8. (a) If the commission receives a petition under IC 14-25-2-3, the commission shall set the rate of compensation to the state under procedures established by the commission.**

**(b) The rate established under subsection (a) must be on a unit pricing basis and comparable with other rates for the wholesale purchase of water in Indiana.**

SECTION 2. IC 14-25-2-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. A contract for the sale of water on a unit pricing basis that is entered into under this chapter or under IC 13-2-1-7 (before its repeal) after June 30, ~~1991~~, **2003**, must provide for compensation to the state at ~~the a~~ rate of ~~thirty-three dollars (\$33) per one million (1,000,000) gallons of water~~. **determined by agreement between the department and the purchaser or contracting party. However, either party may petition the Indiana utility regulatory commission under IC 8-1-2-61.8 to set the rate."**

Re-number all SECTIONS consecutively.

(Reference is to EHB 1664 as printed March 25, 2003.)

WEATHERWAX

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